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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/825,451	04/02/2001	Arthur Francis Champernowne	EXINM117029	1798

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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

This is in response to the communication filed by the applicant on July 16, 2004.

The Appeal Brief filed on July 16, 2004 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP Section 1206.

The amendment after final rejection filed on May 10, 2004 has not been entered.

Therefore, the brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)). Applicant filed an amendment after Final Rejection on May 10, 2004. The Examiner responded with an Advisory Action on June 22, 2004 stating that the Amendment and Response After Final would not be entered because they raised new issues that would require further consideration and/or search. The applicant has presented arguments in the Appeal Brief and attached the amended claims filed on May 10, 2004. The brief is directed to arguments about claims which have not properly been made of record (MPEP 1207).

If applicant disagrees with the Advisory Action stating that the amended claims would not be entered because they raised new issues and require further consideration, then applicant must file a petition and request invoking the supervisory authority of the Director of the Technology under 37 CFR 1.181 as set forth in MPEP Section 1002.02 (c).

Furthermore, the applicant has indicated that the claims are in 24 groups. Appellant's brief includes a statement that each of claims 2, 4, 5, 6, 7, 8 and 12 stand or fall alone, each of claims 14, 16, 17, 18, 19, 20 and 24 stand or fall alone, and each of claims 26, 28, 29, 30, 31, 32 and 36 stand or fall alone. Applicant also states that claims 1, 3, 9, 10 and 11 stand or fall together, claims 13, 15, 21, 22 and 23 stand or fall together, and claims 25, 27, 33, 34, and 35 stand or fall together.

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The brief does not contain arguments of the appellant with respect to each of the issues presented for review in 37 CFR 1.192 (c)(6), and the basis therefore, with citations of authorities, statutes, and parts of the record relied on as required by 37 CFR 1.192(c)(8). Specifically, Appellant fails to address the separate issues of patentability for each of the claims asserted to stand and fall alone and appellant's brief does not include a statement that the grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

See MPEP 1206 which specifically requires:

*(7) Grouping of claims. For each ground of rejection which appellant contests and which applies to a group of two or more claims, the Board shall select a single claim from the group and shall decide the appeal as to the ground of rejection on the basis of that claim alone unless a statement is included that the claims of the group do not stand or fall together and, **in the argument under paragraph (c)(8) of this section, appellant explains why the claims of the group are believed to be separately patentable.** Merely pointing out differences in what the claims cover is not an argument as to why the claims are separately patentable.*

Appellant is required to comply with provisions of 37 CFR 1.192(c). To avoid dismissal of the appeal, Appellant must comply with the provisions of 37 CFR 1.192(c) within the longest of any of the following TIME PERIODS: (1) ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing of this communication; (2) within the time period for reply to the action from which appeal has been taken; or (3) within two months from the date of the notice of appeal under 37 CFR 1.191. Extensions of these time periods may be granted under 37 CFR 1.136.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jan Mooneyham whose telephone number is (703) 305-8554. The examiner can normally be reached on Monday through Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JM



JOHN G. WEISS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600